BUSINESS AND COMMERCE CODE

TITLE 10. USE OF TELECOMMUNICATIONS

SUBTITLE A. TELEPHONES

CHAPTER 302. REGULATION OF TELEPHONE SOLICITATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 302.001. DEFINITIONS. In this chapter:

(1) "Item" means property or a service. The term includes a coupon book to be used with a business.

(2) "Owner" means a person who has control of or is entitled to, by ownership or other claim, at least 10 percent of a seller's net income.

(3) "Purchaser" means a person who:

(A) is solicited to become or becomes obligated for the purchase or rental of an item; or

(B) is offered an opportunity to claim or receive an item.

(4) "Salesperson" means a person who is employed or authorized by a seller to make a telephone solicitation.

(5) "Seller" means a person who makes a telephone solicitation on the person's own behalf.

(6) "Supervised financial institution" means a bank, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, insurer, or other financial institution that is subject to supervision by an official or agency of this state or the United States.

(7) "Telephone solicitation" means a telephone call a seller or salesperson initiates to induce a person to purchase, rent, claim, or receive an item. The term includes a telephone call a purchaser makes in response to a solicitation sent by mail or made by any other means.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.002. MAKING TELEPHONE SOLICITATION. For purposes

of this chapter, a person makes a telephone solicitation if the person effects or attempts to effect a telephone solicitation, including a solicitation initiated by an automatic dialing machine or a recorded message device.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.003. LIBERAL CONSTRUCTION AND APPLICATION. This chapter shall be liberally construed and applied to promote its underlying purpose to protect persons against false, misleading, or deceptive practices in the telephone solicitation business.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.004. ATTEMPTED WAIVER VOID. An attempted waiver of a provision of this chapter is void.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER B. EXEMPTIONS

Sec. 302.051. BURDEN OF PROOF. (a) In a civil proceeding in which a violation of this chapter is alleged, a person who claims an exemption from the application of this chapter has the burden of proving the exemption.

(b) In a criminal proceeding in which a violation of this chapter is alleged, a person who claims an exemption from the application of this chapter as a defense to prosecution has the burden of producing evidence to support the defense.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.052. EXEMPTIONS APPLY ONLY TO SELLERS; EXCEPTION. Except as provided by Section 302.060, an exemption from the application of this chapter applies only to a seller.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.053. EXEMPTION: PERSONS REGULATED BY OTHER LAW. This chapter does not apply to:

(1) a person offering or selling a security that has been qualified for sale under Chapter 4003, Government Code, or that is subject to an exemption under Chapter 4005, Government Code;

(2) a publicly traded corporation registered with the Securities and Exchange Commission or the State Securities Board, or a subsidiary or agent of the corporation;

(3) a person who holds a license issued under the Insurance Code if the solicited transaction is governed by that code;

(4) a supervised financial institution or a parent, a subsidiary, or an affiliate of a supervised financial institution;

(5) a person whose business is regulated by the Public Utility Commission of Texas or an affiliate of that person, except that this chapter applies to such a person or affiliate only with respect to one or more automated dial announcing devices;

(6) a person subject to the control or licensing regulations of the Federal Communications Commission;

(7) a person selling a contractual plan regulated by the Federal Trade Commission trade regulation on use of negative option plans by sellers in commerce under 16 C.F.R. Part 425;

(8) a person subject to filing requirements under Chapter 1803, Occupations Code; or

(9) a person who:

(A) is soliciting a transaction regulated by the Commodity Futures Trading Commission; and

(B) is registered or holds a temporary license for the activity described by Paragraph (A) with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.), if the registration or license has not expired or been suspended or revoked.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.03, eff. January 1, 2022.

Sec. 302.054. EXEMPTION: PERSONS SELLING MEDIA SUBSCRIPTIONS, CERTAIN MERCHANDISE, OR ITEMS FROM CERTAIN CATALOGS. This chapter does not apply to:

(1) a person soliciting the sale of a subscription to:

(A) a daily or weekly newspaper of general circulation;

(B) a magazine or other periodical of general circulation; or

(C) a cable television service;

(2) a person selling merchandise under an arrangement in which the seller periodically ships the merchandise to a consumer who has consented in advance to receive the merchandise periodically; or

(3) a person periodically issuing and delivering to purchasers catalogs that each:

(A) include a written description or illustration and the sales price of each item offered for sale;

(B) include at least 24 full pages of written material or illustrations;

(C) are distributed in more than one state; and

(D) have an annual circulation of at least 250,000 customers.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.055. EXEMPTION: EDUCATIONAL AND NONPROFIT ORGANIZATIONS. This chapter does not apply to an educational institution or organization or a nonprofit organization exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.056. EXEMPTION: CERTAIN COMMERCIAL SALES. This chapter does not apply to a sale in which the purchaser is a

business that intends to:

(1) resell the item purchased; or

(2) use the item purchased in a recycling, reuse, remanufacturing, or manufacturing process.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.057. EXEMPTION: PERSON SOLICITING FOOD SALES. This chapter does not apply to a person soliciting the sale of food.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.058. EXEMPTION: SOLICITATION OF FORMER OR CURRENT CUSTOMERS. This chapter does not apply to:

(1) the solicitation of a contract for the maintenance or repair of an item previously purchased from the person making the solicitation or on whose behalf the solicitation is made; or

(2) a person who:

(A) is soliciting business from a former or current customer; and

(B) has operated under the same business name for at least two years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.059. EXEMPTION: PERSONS WHO MAKE CERTAIN SALES PRESENTATIONS OR MAKE SALES AT ESTABLISHED RETAIL LOCATIONS. This chapter does not apply to:

(1) a person conducting a telephone solicitation who:

(A) does not intend to complete or obtain provisional acceptance of a sale during the telephone solicitation;

(B) does not make a major sales presentation during the telephone solicitation but arranges for a major sales presentation to be made face-to-face at a later meeting between the salesperson and the purchaser; and

(C) does not cause an individual to go to the purchaser to collect payment for the purchase or to deliver an item

purchased directly following the telephone solicitation; or

(2) a person who for at least two years, under the same name as that used in connection with the person's telemarketing operations, has operated a retail establishment where consumer goods are displayed and offered for sale continuously, if a majority of the person's business involves buyers obtaining services or products at the retail establishment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.060. EXEMPTION: CERTAIN PERSONS PROVIDING TELEPHONE SOLICITATION SERVICES PREDOMINANTLY FOR EXEMPT PERSONS. This chapter does not apply to a person:

(1) who provides telephone solicitation services under contract to a seller;

(2) who has been operating continuously for at least three years under the same business name; and

(3) for whom at least 75 percent of the person's contracts are performed on behalf of other persons exempt from the application of this chapter under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.061. EXEMPTION: PERSONS CONDUCTING CERTAIN ISOLATED TELEPHONE SOLICITATIONS. This chapter does not apply to a person engaging in a telephone solicitation that:

(1) is an isolated transaction; and

(2) is not done in the course of a pattern of repeated transactions of a similar nature.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER C. REGISTRATION

Sec. 302.101. REGISTRATION CERTIFICATE REQUIRED. (a) A seller may not make a telephone solicitation from a location in this state or to a purchaser located in this state unless the seller

holds a registration certificate for the business location from which the telephone solicitation is made.

(b) A separate registration certificate is required for each business location from which a telephone solicitation is made.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.102. FILING OF REGISTRATION STATEMENT; PUBLIC INFORMATION. (a) To obtain a registration certificate, a seller must file with the secretary of state a registration statement that:

(1) is in the form prescribed by the secretary of state;

(2) contains the information required by Subchapter D;

(3) is verified by each principal of the seller; and

(4) specifies the date and location of verification.

(b) Information included in or attached to a registration statement is public information.

(c) In this section, "principal" means an owner, an executive officer of a corporation, a general partner of a partnership, a sole proprietor, a trustee of a trust, or another individual with similar supervisory functions with respect to any person.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.103. ISSUANCE OF REGISTRATION CERTIFICATE. (a) The secretary of state shall issue a registration certificate and mail the certificate to the seller when the secretary of state receives:

(1) a completed registration statement required by Section 302.102;

(2) the filing fee prescribed by Section 302.106;

(3) the security required by Section 302.107; and

(4) the consent regarding service of process required by Section 302.108.

(b) If the seller uses a single registration statement to

register more than one business location, the secretary of state shall:

(1) issue a registration certificate for each business location; and

(2) mail all the certificates to the principal business location shown on the registration statement.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.104. EFFECTIVE DATE OF REGISTRATION STATEMENT; RENEWAL. (a) A registration statement takes effect on the date the secretary of state issues the registration certificate and is effective for one year.

(b) A registration statement may be renewed annually by:

(1) filing a renewal registration statement containing the information required by Subchapter D; and

(2) paying the filing fee prescribed by Section 302.106.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.105. ADDENDA REQUIREMENTS. (a) For each quarter after the effective date of a registration statement, the seller shall file with the secretary of state an addendum providing the required registration information for each salesperson who is soliciting or has solicited on behalf of the seller during the preceding quarter.

(b) A seller may comply with Subsection (a) by filing with the secretary of state a copy of the "Employer's Quarterly Report" for employee wages that the seller files with the Texas Workforce Commission.

(c) In addition to filing the quarterly addendum, if a material change in information submitted in a registration statement, other than the information described by Subsection (a), occurs before the date for renewal, a seller shall submit that information to the secretary of state by filing an addendum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01,

eff. April 1, 2009.

Sec. 302.106. FILING FEE. The filing fee for a registration statement is $200.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.107. SECURITY REQUIREMENTS. A registration statement must be accompanied by security that:

(1) is in the amount of $10,000;

(2) is in the form of:

(A) a bond executed by a corporate security that:

(i) is approved by the secretary of state; and

(ii) holds a license to transact business in this state;

(B) an irrevocable letter of credit issued for the benefit of the registrant by a supervised financial institution whose deposits are insured by an agency of the federal government; or

(C) a certificate of deposit in a supervised financial institution whose deposits are insured by an agency of the federal government, the principal of which may be withdrawn only on the order of the secretary of state; and

(3) is conditioned on the seller's compliance with this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.108. APPOINTMENT OF SECRETARY OF STATE AS AGENT FOR SERVICE. (a) A seller shall file with the secretary of state, in the form prescribed by the secretary of state, an irrevocable consent appointing the secretary of state to act as the seller's agent to receive service of process in a noncriminal action or proceeding that may arise under this chapter against the seller or the seller's successor, executor, or administrator if:

(1) an agent has not been named under Section

302.151(15);

(2) the agent named under Section 302.151(15) has resigned or died and the name of a successor agent has not been submitted under Section 302.105; or

(3) the agent named under Section 302.151(15) cannot with reasonable diligence be found at the disclosed address.

(b) Service on the secretary of state under this section has the same effect as service on the seller. Service on the secretary of state may be made by:

(1) leaving a copy of the process in the office of the secretary of state;

(2) promptly sending by first class mail a notice of the service and a copy of the process to the seller's principal business location at the last address on file with the secretary of state; and

(3) filing the plaintiff's affidavit of compliance with this section in the action or proceeding on or before the return date of any process or within an additional period that the court allows.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER D. DISCLOSURES REQUIRED IN REGISTRATION STATEMENT

Sec. 302.151. DISCLOSURE OF CERTAIN NAMES, ADDRESSES, TELEPHONE NUMBERS, AND ORGANIZATIONAL INFORMATION. A registration statement must contain:

(1) the seller's name and, if different from the seller's name, the name under which the seller is transacting or intends to transact business;

(2) the name of each parent and affiliated organization of the seller that:

(A) will transact business with a purchaser relating to sales solicited by the seller; or

(B) accepts responsibility for statements made by, or acts of, the seller relating to sales solicited by the seller;

(3) the seller's:

(A) form of business; and

(B) place of organization;

(4) for a seller who is a corporation, a copy of the seller's certificate of formation and bylaws;

(5) for a seller who is a partnership, a copy of the partnership agreement;

(6) for a seller who is operating under an assumed business name, the location where the assumed name has been registered;

(7) for any parent or affiliated organization disclosed under Subdivision (2), the applicable information that is required of a seller under Subdivisions (3) through (6);

(8) the complete street address of each location of the seller, designating the principal location from which the seller will be transacting business;

(9) if the principal business location of the seller is not in this state, a designation of the seller's main location in this state;

(10) a listing of each telephone number to be used by the seller and the address where each telephone using the number is located;

(11) the name and title of each of the seller's officers, directors, trustees, general and limited partners, and owners, as applicable, and the name of each of those persons who has management responsibilities in connection with the seller's business activities;

(12) for each person whose name is disclosed under Subdivision (11) and for each seller who is a sole proprietor:

(A) the complete address of the person's principal residence;

(B) the person's date of birth; and

(C) the number of and state that issued the person's driver's license;

(13) the name and principal residence address of each person the seller leaves in charge at each location from which the seller transacts business in this state and the business location

at which each of those persons is or will be in charge;

(14) the name and principal residence address of each salesperson who solicits on the seller's behalf or a copy of the "Employer's Quarterly Report" for employee wages the seller files with the Texas Workforce Commission and the name the salesperson uses while soliciting;

(15) the name and address of the seller's agent in this state, other than the secretary of state, who is authorized to receive service of process; and

(16) the name and address of each financial institution with which the seller makes banking or similar monetary transactions and the identification number of each of the seller's accounts in each institution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.152. DISCLOSURE OF CERTAIN CONVICTIONS, PLEAS, JUDGMENTS, ORDERS, BANKRUPTCIES, AND REORGANIZATIONS. (a) With respect to the seller and each person identified under Section 302.151(11) or (13), a registration statement must identify each person:

(1) who has been convicted of or pleaded nolo contendere to:

(A) an offense involving an alleged violation of this chapter; or

(B) fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property;

(2) against whom a final judgment or order has been entered in a civil or administrative action, including a stipulated judgment or order, in which the complaint or petition alleged:

(A) acts constituting:

(i) a violation of this chapter; or

(ii) fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property;

(B) the use of false or misleading representations in an attempt to sell or otherwise dispose of property; or

(C) the use of unfair, unlawful, or deceptive business practices;

(3) who is subject to an injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency, including an action affecting a vocational license; or

(4) who, during the previous seven tax years:

(A) has filed in bankruptcy;

(B) has been adjudged a bankrupt;

(C) has been reorganized because of insolvency; or

(D) has been a principal, director, officer, trustee, or general or limited partner of, or had management responsibilities for, a corporation, partnership, joint venture, or other business entity that has filed in bankruptcy, been adjudged a bankrupt, or been reorganized because of insolvency while the person held that position or on or before the first anniversary of the date on which the person last held that position.

(b) For each person identified under Subsection (a)(1), (2), or (3), the statement must disclose:

(1) the court that received the plea of nolo contendere or the court or administrative agency that rendered the conviction, judgment, or order;

(2) the docket number of the matter;

(3) the date the plea of nolo contendere was received or the date of the conviction, judgment, or order; and

(4) the name of any government agency that brought the action resulting in the plea or the conviction, judgment, or order.

(c) For each person identified under Subsection (a)(4), the statement must disclose:

(1) the name and location of the person filing in bankruptcy, adjudged a bankrupt, or reorganized because of insolvency;

(2) the date of the filing, judgment, or reorganization order;

(3) the court having jurisdiction; and

(4) the docket number of the matter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.153. DISCLOSURE OF CERTAIN SALES INFORMATION. (a) A registration statement must be accompanied by:

(1) a description of the items the seller is offering for sale;

(2) a copy of all sales information and literature, including scripts, outlines, instructions, and information regarding the conduct of telephone solicitations, sample introductions, sample closings, product information, and contest or premium-award information, that the seller provides to salespersons or about which the seller informs salespersons;

(3) a copy of all written material the seller sends to any purchaser; and

(4) as applicable, the information and documents specified by Subsections (b) through (h).

(b) If the seller represents or implies, or directs a salesperson to represent or imply, to a purchaser that the purchaser will receive a specific item, including a certificate that the purchaser must redeem to obtain the item described in the certificate, or one or more items from among designated items, regardless of whether the items are designated as gifts, premiums, bonuses, or prizes or otherwise, the registration statement must be accompanied by:

(1) a list of the items described;

(2) the value of each item and the basis for the valuation;

(3) the price the seller paid for each item to the seller's supplier and the name, address, and telephone number of each item's supplier;

(4) all rules and terms a purchaser must meet to receive the item; and

(5) if the purchaser will not receive all of the items described by the seller:

(A) the manner in which the seller decides which item a particular purchaser is to receive;

(B) for each item, the odds of a single purchaser receiving the item; and

(C) the name and address of each purchaser who has received, during the preceding 12 months, the item with the greatest value and the item with the lowest odds of being received.

(c) If the seller is offering an item that the seller does not manufacture or supply, the registration statement must be accompanied by:

(1) the name, address, and telephone number of each of the seller's suppliers;

(2) a description of each item provided by each supplier named in Subdivision (1); and

(3) as applicable, the information and documents specified by Subsections (d) through (g).

(d) If the seller is offering an item that the seller does not manufacture or supply and the possession of the item is to be retained by the seller or will not be transferred to the purchaser until the purchaser has paid in full, the registration statement must be accompanied by:

(1) the address of each location where the item will be kept;

(2) if the item is not kept on premises owned by the seller or at an address registered under Section 302.151(8) or (9), the name of the owner of the business at which the item will be kept; and

(3) a copy of any contract or other document that evidences the seller's right to store the item at the address designated under Subdivision (2).

(e) If the seller is offering an item that the seller does not manufacture or supply and the seller is not selling the item from the seller's own inventory but purchases the item to fill an order previously taken from a purchaser, the registration statement must be accompanied by a copy of each contract or other document that evidences the seller's ability to call on suppliers to fill the seller's orders.

(f) If the seller is offering an item that the seller does not manufacture or supply and the seller represents to purchasers

that the seller has insurance or a surety bond relating to a purchaser's purchase of an item, the registration statement must be accompanied by a copy of each insurance policy or bond.

(g) If the seller is offering an item that the seller does not manufacture or supply and the seller makes a representation regarding the post-purchase earning or profit potential of an item, the registration statement must be accompanied by:

(1) data to substantiate the claims made; and

(2) if the representation relates to previous sales made by the seller or a related entity, substantiating data based on the experiences of at least 50 percent of purchasers of that particular type of item from the seller or related entity during the preceding six months, including:

(A) the period the seller or related entity has been selling the particular type of item being offered;

(B) the number of purchasers of the item known to the seller or related entity to have made at least the same earnings or profit as those represented; and

(C) the percentage that the number disclosed under Paragraph (B) represents of the total number of purchasers from the seller or related entity of the particular type of item offered.

(h) If the seller is offering to sell an interest in an oil, gas, or mineral field, well, or exploration site, the registration statement must be accompanied by:

(1) any ownership interest of the seller in each field, well, or site being offered for sale;

(2) the total number of interests to be sold in each field, well, or site being offered for sale; and

(3) if, in selling an interest in any particular field, well, or site, reference is made to an investigation of the field, well, or site by the seller or anyone else:

(A) the name, business address, telephone number, and professional credentials of the person who conducted the investigation; and

(B) a copy of the report and other documents relating to the investigation prepared by the person who conducted

the investigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER E. ADDITIONAL INFORMATION FROM SELLER

Sec. 302.201. INFORMATION REQUIRED TO BE POSTED OR AVAILABLE AT SELLER'S BUSINESS LOCATION. (a) A seller shall post the registration certificate in a conspicuous place at the location for which the certificate is issued.

(b) A seller shall post in close proximity to the registration certificate the name of each individual in charge of the location.

(c) A seller shall make available at each of the seller's business locations a copy of the entire registration statement and any addenda for inspection by a purchaser or by a representative of a government agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.202. DISCLOSURES REQUIRED BEFORE PURCHASE. When a telephone solicitation is made and before consummation of any sales transaction, a seller shall provide to each purchaser:

(1) the complete street address of the location from which the salesperson is calling the purchaser and, if different, the complete street address of the seller's principal location;

(2) if the seller represents or implies that a purchaser will receive without charge a specified item or one item from among designated items, regardless of whether the items are designated as gifts, premiums, bonuses, prizes, or otherwise:

(A) the information required to be filed by Sections 302.153(b)(4) and (5)(A) and (B), as appropriate; and

(B) the total number of individuals who have actually received from the seller during the preceding 12 months the item having the greatest value and the item with the smallest odds of being received;

(3) if the seller is offering to sell an interest in an

oil, gas, or mineral field, well, or exploration site, the information required by Section 302.153(h); and

(4) if the seller represents that an item is being offered at a price below that usually charged for the item, the name of the item's manufacturer.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.203. REFERENCE TO COMPLIANCE WITH STATUTE PROHIBITED. A seller may not make or authorize the making of a reference to the seller's compliance with this chapter to a purchaser.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER F. OFFENSES

Sec. 302.251. VIOLATION OF CERTAIN PROVISIONS. (a) A person commits an offense if the person knowingly violates Section 302.101, 302.105, 302.201, 302.202, or 302.203. Each violation constitutes a separate offense.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.252. ACTING AS SALESPERSON FOR UNREGISTERED SELLER. (a) A person commits an offense if the person knowingly acts as a salesperson on behalf of a seller who violates the registration requirements of this chapter. Each violation constitutes a separate offense.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.253. REQUEST FOR CREDIT CARD ACCOUNT NUMBER OR CHECKING ACCOUNT NUMBER AFTER OFFER OF FREE ITEM. (a) A seller commits an offense if the seller knowingly:

(1) represents or implies that a purchaser will receive an item without charge, regardless of whether the item is designated as a gift, premium, bonus, or prize or otherwise; and

(2) requests a credit card account number or checking account number from the purchaser to charge to the credit card account or debit from the checking account an amount as a condition precedent to the purchaser's receipt of the item.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER G. ENFORCEMENT

Sec. 302.301. INJUNCTION. (a) The attorney general may bring an action to enjoin a person from violating this chapter.

(b) The attorney general shall notify the defendant of the alleged prohibited conduct not later than the seventh day before the date the action is filed, except that notice is not required if the attorney general intends to request that the court issue a temporary restraining order.

(c) The attorney general is entitled to recover all reasonable costs of prosecuting the action, including court costs and investigation costs, deposition expenses, witness fees, and attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.302. CIVIL PENALTIES. (a) A person who violates this chapter is subject to a civil penalty of not more than $5,000 for each violation.

(b) A person who violates an injunction issued under Section 302.301 is liable to this state for a civil penalty of not more than:

(1) $25,000 for each violation of the injunction; and

(2) $50,000 for all violations of the injunction.

(c) The attorney general may bring an action to recover a civil penalty under Subsection (b) in the court that issued the

original injunction.

(d) The party bringing the action also is entitled to recover all reasonable costs of prosecuting the action, including court costs and investigation costs, deposition expenses, witness fees, and attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.303. DECEPTIVE TRADE PRACTICES. (a) A violation of this chapter is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17.

(b) A public or private right or remedy prescribed by Subchapter E, Chapter 17, may be used to enforce this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 302.304. ACTION TO RECOVER AGAINST SECURITY. (a) A person injured by a seller's bankruptcy or by a seller's breach of an agreement entered into during a telephone solicitation may bring an action to recover against the security required under Section 302.107.

(b) The liability of the surety on a bond provided under Section 302.107 may not exceed the amount of the bond, regardless of the number of claims filed or the aggregate amount claimed. If the amount claimed exceeds the amount of the bond, the surety shall deposit the amount of the bond with the secretary of state for distribution to claimants entitled to recovery, and the surety is then relieved of all liability under the bond.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.